

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
CenturyLink Petition for Limited Stay)	
)	

REPLY COMMENTS OF WIDE VOICE, LLC

Wide Voice, LLC,¹ hereby submits these comments in support of the Petition for Limited Stay filed by CenturyLink in the above referenced proceeding.² There appears to be considerable confusion within the industry regarding Years 6 and 7 reductions adopted in the 2011 *Transformation Order*³ for certain tandem switching charges. As such, Wide Voice supports CenturyLink's petition for a stay of the tandem switched transport rate reductions scheduled to be implemented under Sections 51.907(g)(2) and 51.907(h), at least until the Federal Communications Commission ("FCC" or "Commission") can clearly define the rules across all carriers.

I. BACKGROUND

CenturyLink's stay request highlights the considerable confusion surrounding the term "affiliate." Pursuant to 47 CFR § 51.907(g)(2), as of July 1, 2017, "Each Price Cap Carrier shall establish, for interstate and intrastate terminating traffic traversing a tandem switch that the terminating carrier or its affiliates owns, Tandem-Switched Transport Access Service rates not

¹ Wide Voice, LLC is a nationwide competitive local exchange carrier "CLEC" operating in 47 states with pending applications in the remaining 3 that is focused on providing applications connectivity to the PSTN along with other wholesale communication services.

² Petition for Limited Stay of Transformation Order Years 6 and 7 ICC Transition - As it Impacts a Subset of Tandem Switching and Transport Charges, WC Docket No. 10-90, *et al.* (filed Apr. 11, 2017) ("Petition").

³ *Connect America Fund*, *et al.*, 26 FCC Red. 17663 (2011) ("*Transformation Order*") (subsequent history omitted), *aff'd sub nom.*, *In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014).

greater than \$0.0007 per minute." Similarly, Section 51.907(h) mandates rate reductions for "terminating tandem-switched access service traversing a tandem switch that the terminating carrier or its affiliate owns." Yet, the *Transformation Order* offers no formal guidance as to the definition of the term "affiliate."⁴

Because of these "ambiguities and contradictions," some carriers sought informal guidance from the FCC.⁵ In response, Commission staff provided informal guidance to a closed group representing the interests of "unnamed members of 'the industry. . .'"⁶ This informal guidance has created far more confusion than regulatory certainty.

II. WIDE VOICE AGREES WITH CENTURYLINK THAT THE REQUESTED STAY IS IN THE PUBLIC INTEREST

Wide Voice agrees with CenturyLink that a stay of the Years 6 and 7 transitions is in the public interest to avoid the inevitable "confusing morass as carriers take a variety of different approaches to the Section 51.907(g) requirements in the Year 6 annual tariff filing process that begins June 16, 2017."⁷ Despite the informal guidance provided by the FCC, questions remain for the industry as a whole. Specifically, what is the definition of an affiliate for the purpose of Steps 6 and Steps 7? The FCC's informal guidance to certain price cap carriers creates new definitions of affiliation outside any clarification included in the 2011 *Transformation Order*. For example, the Commission said that the rate reductions would apply "where the tandem is owned by a price cap carrier and the end office is owned by another price cap carrier that is affiliated - i.e. owned by the same holding company"⁸ Yet the FCC creates a carve out from the scheduled rate reductions for certain price cap carriers and affiliated carriers of a different

⁴ Petition at 5.

⁵ Petition at 6.

⁶ Comments of Inteliquent, Inc., WC Docket No. 10-90, *et al.* (filed May 4, 2017) at 2-3.

⁷ Petition at 2.

⁸ Petition at 6.

classification, including an affiliated CMRS carrier or CLEC.⁹ This asymmetrical application of rules to different carriers classes only serves to distort the competitive marketplace. As CenturyLink points out, "competitive harms will follow where the transition to zero applies to tandem services provided when the tandem owner and the end office owner are affiliated and are one type of carrier, but not when they are affiliated and are another type of carrier."¹⁰ Despite some carriers arguing that fiercely competitive marketplaces justify differing regulatory treatment for varying carrier combinations, Wide Voice believes that a level regulatory playing field best promotes competition and investment in the communications marketplace.¹¹

Inferring from the FCC's informal guidance, it stands to reason that an affiliated tandem connecting to a different carrier type is not subject to the transition. However, Wide Voice believes that further clarity is needed as to other potential combinations that may be subject to and exempt from the transition. Such combinations include, but are not limited to, "terminating carriers" that are end office CLECs, CMRS providers, or VoIP providers, and that may have an affiliation with the tandem CLEC either by being under the same holding company or by having some percentage of common ownership or joint control. The combination variations expand further when we consider VoIP providers that are hosted by end office CLECs which then subtend a tandem CLEC - and *those* CLECs may have some affiliation. Each CLEC combination warrants at least the same policy consideration as was given to the narrow combinations identified by the price cap team in its informal discussions with Commission staff.

⁹ *Id.*

¹⁰ Petition at 8.

¹¹ See, e.g., Comments of AT&T In Opposition to CenturyLink Petition for Stay, WC Docket No. 10-90, *et al.* (filed May 4, 2017) at 14 noting that applying the rate transition to situations in which a CMRS carrier was the terminating carrier and the affiliated price cap carrier was the tandem owner would be "destabilizing" due to the fierce price competition in the wireless marketplace. Nevertheless, "AT&T also agrees that the Commission should avoid 'fundamental asymmetry' in intercarrier compensation, and that, as the Commission has long recognized, such inefficiencies cause 'competitive harm.'" *Id.* at 8.

Other carriers agree with the need for further clarity surrounding the interpretation of the term "affiliate." Even Sprint, who opposes the stay, suggests a clear definition and database of affiliations to avoid this uncertainty.¹²

Moreover, the FCC's informal guidance has a large impact on other providers who were not included in the industry discussions, creating ambiguous and unclear guidelines for other carrier types. The only certainty that will come from the FCC's informal guidance is ample billing disputes, as certain carriers will no doubt look to the rules and the informal guidance as regulatory loopholes for nonpayment. Such billing disputes will wreak regulatory havoc for smaller carriers, who can only enter into costly litigation to enforce their rights.

Ultimately, Wide Voice believes that there should be broader industry discussions as to the impact that carrier affiliation has on what a carrier can charge for its services, as such regulation based on affiliation seems only to create additional arbitrage opportunities. As a result, overall market rates are unlikely to change as desired, customer quality will decrease by having additional parties artificially inserted, and affiliated entities will have a price disadvantage.

As such, Wide Voice supports CenturyLink's petition for a stay on Year 6 and 7 transitions, at least until the FCC can clearly define the rules across the board for all carriers.

Respectfully submitted,

/s/ Andy Nickerson
CEO
Wide Voice, LLC
410 S. Rampart
Suite 390
Las Vegas, NV 89145

¹² Opposition of Sprint Corporation, WC Docket No. 10-90, *et al.* (filed May 4, 2017) at 4.